

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 1**

In the Matter of:

ISP Freetown Fine Chemicals, Inc.

MAR000009605

Proceeding under Section 3008(a) of the Resource  
Conservation and Recovery Act,  
U.S.C. § 6928(a)

Docket No. RCRA-01-2018-0062

**JOINT MOTION REQUESTING ALTERNATIVE DISPUTE RESOLUTION**

Complainant U.S. Environmental Protection Agency (“Complainant”) and Respondent ISP Freetown Fine Chemicals, Inc. (“Respondent”) submit this Joint Motion Requesting Alternative Dispute Resolution (“ADR”), in accordance with this Tribunal’s Order On Joint Request For Extension issued December 3, 2019 (“Order”). In that Order, this Tribunal further deferred scheduling the Prehearing Exchange until January 17, 2020, required the parties to file a status report by January 3, 2020, and indicated that if the parties do not reach a settlement in principle by January 17, 2020, they may file a motion requesting ADR under 40 C.F.R. § 22.18(d).

On January 3, 2020, the parties filed the status report as required by the December 3 Order. The status report indicated that the parties were continuing to make progress in settlement negotiations, while acknowledging that negotiations have been delayed due to holiday and other vacation schedules. Since January 3, 2020, the parties have made additional significant progress in these negotiations but have not yet reached a settlement in principle. On January 9 and 13, there was additional information exchanged between the parties. On January 15, in consideration of this additional information, a response to the formal settlement proposal

mentioned in our January 3 status report was provided by EPA. With respect to the independent third party that possesses information critical to these negotiations mentioned in our January 3 status report, the parties are scheduled to have additional communications with this third party on January 16<sup>th</sup>. The parties believe that significant progress is being made toward settlement of this matter, and that settlement continues to be likely.

The parties understand that it is the Tribunal's practice to refer a case to ADR after the Prehearing Exchange process has been completed. We have reviewed *Adamas Constr. and Dev. Servs., PLLC*, Docket No. CWA-07-2019-0262, cited in the December 3 Order. The parties respectfully request ADR in advance of the Prehearing Exchange process, and outside of the normal process, for the following reasons:

1. There has already been a significant information exchange in these factually complex negotiations. Based on this continuing exchange of information, the parties have significantly narrowed the issues for purposes of settlement. The parties do not believe the Prehearing Exchange will lead to further progress toward settlement because the parties already have an extensive understanding of the factual and legal issues based on the documents shared to date.
2. The momentum toward settlement would be delayed, rather than facilitated, if the parties were to turn their attention to a Prehearing Exchange at this time. In short, the Prehearing Exchange would likely slow down the negotiation process.
3. The parties both have pending motions before this Tribunal. Respondent filed a motion to dismiss several of the counts raised in the Amended Complaint and Complainant filed a motion to strike two of Respondent's affirmative defenses. The

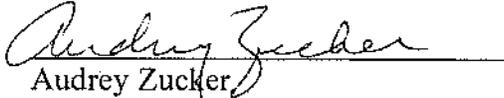
filing of the Prehearing Exchange prior to any ruling on these motions might be premature.

4. Finally, if this Tribunal prefers, instead of relying on the Tribunal's ADR process, the parties would rely on a private mediator to conserve the resources of the Tribunal.

For all of the above reasons, this joint motion for mediation in advance of the Prehearing Exchange process should be granted.

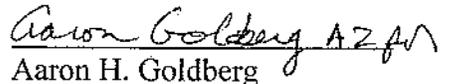
DATED: January 16, 2020

Respectfully submitted,



Audrey Zucker  
(617) 918-1788  
zucker.audrey@epa.gov  
Enforcement Counsel  
U.S. Environmental Protection Agency, Region 1  
5 Post Office Square  
Suite 100, Mail Code ORC 04-2  
Boston, MA 02109

*Counsel for Complainant  
U.S. Environmental Protection Agency*



Aaron H. Goldberg  
(202) 789-6052  
agoldberg@bdlaw.com  
BEVERIDGE & DIAMOND, P.C.  
1350 I Street, N.W., Suite 700  
Washington, D.C. 20005

Eric L. Klein  
Brook J. Detterman  
(617) 419-2300  
eklein@bdlaw.com  
bdetterman@bdlaw.com  
BEVERIDGE & DIAMOND, P.C.  
155 Federal Street, Suite 1600  
Boston, MA 02110

*Counsel for Respondent  
ISP Freetown Fine Chemicals, Inc.*

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Joint Motion Requesting Alternative Dispute Resolution was served this 16th day of January 2020 in the following manner on the addressees listed below:

Copy by e-mail to:

Attorney for Respondent  
Eric L. Klein  
BEVERIDGE & DIAMOND, P.C.  
155 Federal Street, Suite 1600  
Boston, MA 02110  
eklein@bdlaw.com

By OALJ E-Filing System:

Mary Angeles, Headquarters Hearing Clerk  
U.S. Environmental Protection Agency  
Office of Administrative Law Judges  
1200 Pennsylvania Ave., NW  
Washington, DC 20460

By OALJ E-Filing System:

Christine Coughlin, Administrative Law Judge  
U.S. Environmental Protection Agency  
Office of Administrative Law Judges  
1200 Pennsylvania Ave., NW  
Washington, DC 20460

January 16, 2020

  
Audrey Zucker

Region 1  
U.S. Environmental Protection Agency  
5 Post Office Square, Suite 100 (ORC 04-2)  
Boston, MA 02109  
[Zucker.audrey@epa.gov](mailto:Zucker.audrey@epa.gov)  
Attorney for Complainant